

AGREEMENT

between the

FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

and

Name of Contractor (School)

THIS AGREEMENT is made effective this _____ day of _____, 20 ____ , BY AND BETWEEN the
**FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES, DIVISION OF
DRIVER LICENSES**, (hereinafter the “Department”) AND _____,
(hereinafter the “Contractor”) located at _____(Contractor address).

WITNESSETH

WHEREAS, the Contractor operates a commercial driving school for the purpose of instructing the public in the operation of a motor vehicle; and

WHEREAS, Chapter 488, Florida Statutes, provides for the Department to oversee all commercial driving schools, except truck driving schools; and

WHEREAS, Chapter 488, Florida Statutes, also provides that the Department is authorized to adopt regulations necessary to implement the law,

NOW THEREFORE, the Department and the Contractor, in consideration of the duties and responsibilities set forth herein, mutually agree as follows:

SECTION I. GENERAL

1. A Contractor must be under agreement with the Department prior to engaging in any driving instruction. Acceptance of the terms and conditions of this agreement shall allow the Contractor to be licensed pursuant to Chapter 488, Florida Statutes.
2. Chapter 488, Florida Statutes, is incorporated by reference into this agreement and each Contractor must meet any and all applicable provisions therein in accordance with and as interpreted or modified by the specifications in this agreement.
3. The license to operate a commercial driving school under this agreement shall be valid for a period of one year from the date of this agreement, except as provided in Section IV of this agreement. The Contractor shall not conduct business as a commercial driving school on an expired or canceled Agreement.
4. The license to operate a commercial driving school under this agreement is not transferable to a new school owner. Any change in the school owner’s name shall result in cancellation of this agreement

and surrender of the license to the Department, except as provided for in Section V of this agreement.

5. The license to operate a commercial driving school under this agreement must be conspicuously displayed in the Contractor's principal place of business.

SECTION II. DEFINITIONS.

For the purposes of this Agreement, the following words and phrases shall have the meaning indicated:

1. **Advanced Crash Avoidance Skills Course** – Advanced driver training consisting of a minimum of 2 hours of classroom/lecture training covering causes of crashes, consequences of crashes, mechanics and dynamics of crashes, principles of car control, human dynamics and vehicle dynamics plus 4 continuous hours of range training not on public streets or roads in exercises developing visual skills, steering skills, braking skills and crash avoidance skills. The contractor may require parent participation as a condition of taking their course.
2. **Advanced Driver Education Course** - Driving instruction consisting of a minimum of thirty (30) hours academic training, and six (6) hours on the road training in which the student is in actual physical control of the motor vehicle. The course must include basic motor vehicle operation, control, traffic perceptual skills and risk recognition and control procedures.
3. **Agent** - A person who holds a valid identification card issued by the Department, pursuant to Chapter 488, Florida Statutes, indicating the individual is an agent for the Contractor and authorized by the Contractor to solicit on behalf of the Contractor.
4. **Commercial Driving School License** - A license issued to a Contractor by the Department pursuant to Chapter 488, Florida Statutes, indicating that the Contractor is authorized to engage in driving instruction.
5. **Contractor** - An entity, its employees and agents that holds a valid commercial driving school license issued by the Department pursuant to Chapter 488, Florida Statutes, for the purpose of engaging in driving instruction.
6. **Department** - The Department of Highway Safety and Motor Vehicles and its officers, agents and subdivisions.
7. **Driver Education Instructor Course** - Consists of a 32-hour Teaching Driver and Traffic Safety Education Course.
8. **Driver Performance Analysis System (DPAS)** - The driver performance test that a potential instructor must pass to be eligible to instruct the Basic Driver Education instructor courses.
9. **Driving Instruction** - Any activity for compensation related to on the road or classroom education or training in the operation of a motor vehicle.
10. **Driving Instruction Contract** - A written agreement between a Contractor and each of its students to provide driving instruction.
11. **Driver License Office** - A driver licensing facility operated by or under the authority of the Department's Division of Driver Licenses.
12. **Immediate Family Member** - A person's spouse, parents, brothers, sisters and children, and parents, brothers, sisters and children of the spouse.
13. **Instructor** - A person who holds a valid instructor certificate and engages in driving instruction on behalf of a commercial driving school licensed by the Department.
14. **Instructor Certificate** - An instructor certificate issued to an individual instructor by the Department, pursuant to Chapter 488, Florida Statutes, indicating the individual is an instructor for a specific commercial driving school.
15. **School Owner** - A person who has the controlling financial interest of the Contractor.
16. **Solicitation** - A request or offer directly or indirectly, to a person for driving instruction services or enrollment of a student in a commercial driving school.
17. **Student** - A person who receives driving instruction from a Contractor.

- 18. Vehicle Registration** – A vehicle owned or leased by the Contractor that is registered with the department to provide driving instructions.

SECTION III. APPLICATION

Prior to entering into this agreement, the Contractor must:

1. Submit to the Department a completed application on form HSMV 72604, including all required documentation and fees.
2. Have at least one instructor under contract and certified by the Department pursuant to Chapter 488, Florida Statutes.

SECTION IV. LICENSE RENEWAL

1. The Contractor may renew their license by submitting a completed license renewal application on form HSMV 72604, including all required documentation and fees to the Department at least forty-five (45) days prior to the expiration of your license. If the Department determines that the Contractor is eligible for license renewal, the renewal period shall be for a period of one year and shall be acknowledged by both parties to this agreement in writing.
2. Failure to submit a completed renewal application at least forty-five (45) days prior to the expiration date will result in a non-renewal of this agreement. In such case, a Contractor must submit an original application for license, including all fees.
3. An application for renewal may be denied by the Department for the reasons set forth in Section IX of this agreement or as the Department deems appropriate.

SECTION V. GENERAL REQUIREMENTS FOR CONTRACTORS

1. No employee of the Department or immediate family member of a Department employee shall be connected in any capacity with any Contractor in accordance with Section 112.313(7), Florida Statutes.
2. A Contractor shall not indicate that its program is in any way endorsed by the Department, except to say that it is “licensed.”
3. A Contractor shall not utilize advertising that indicates, in any way, the Contractor can issue or guarantee the issuance of a driver license or imply that the Contractor can in any way influence the Department in the issuance of a driver license, or imply preferential or advantageous treatment from the Department can be obtained.
4. A Contractor shall not use any name in its advertising besides the name on its application for license and shall not use the word “state” in any part of its name.
5. The Contractor must notify the Department in writing within ten (10) days of any change in the school owner’s name, the school owner’s address, the school’s name, or the school’s principal place of business address or telephone number.
6. A duplicate Contractor license or vehicle registration may be issued to a Contractor upon a request by the Contractor submitted to the Department on a completed form HSMV 72604. An affidavit stating that the original document was physically destroyed or lost must accompany the form HSMV 72604.
7. The Contractor shall sufficiently train its students that do not have a Class “E” driver license to better enable students to safely operate a motor vehicle. The Department may require performance evaluations of a Contractor, if the Department determines the Contractor’s driving instruction does not meet this standard.

SECTION VI. CONTRACTOR OFFICES AND INSTRUCTION FACILITIES

1. A Contractor must establish and maintain a principal place of business in the State of Florida which shall not be connected to any residence. A Contractor must establish and maintain a permanent mailing address.
2. A Contractor shall ensure that its principal place of business is safe and meets all requirements of state and federal law and local ordinances.
3. No Contractor facility shall be established within 300 feet of any Driver License Office.
4. A Contractor must permit the Department to inspect its meeting facilities upon reasonable notice. A Contractor must permit the Department to inspect its classrooms, offices, vehicles, and records at the discretion of the Department.
5. All classroom facilities must have a minimum of 200 square feet of space or 20 feet of space per student, whichever is greater.

SECTION VII. DRIVING INSTRUCTION

1. Any driving instruction curriculum used by a Contractor must be submitted to the Department prior to use by a Contractor.
2. The Contractor cannot provide on the road driving instruction unless the student possesses at least a learner's driver license.
3. A Contractor must execute a driving instruction contract with each student which must contain the following information:
 - a. The name of the student.
 - b. The date of birth of the student.
 - c. The address of the student.
 - d. The driver license number of the student.
 - e. The date of the contract.
 - f. The name of the Contractor.
 - g. The name of the Contractor instructor.
 - h. The signatures of both the student and Contractor instructor.
4. An insurance policy related to driving instruction must name the Contractor as the insured. Any insurance policy must meet the requirements of Chapter 324, Florida Statutes. A Contractor must notify the Department in writing within five (5) days of expiration or cancellation of any insurance policy related to driving instruction.
5. A Contractor accompanying a student to a driver license office must carry a copy of the student's driving instruction contract and make it immediately available for inspection by the Department. However, a Contractor shall not accompany a student during the actual driver license testing process.
6. A Contractor must not engage in driving instruction or solicitation at any driver license office, whether owned or leased, including the driving range and parking areas adjoining the driver license office.

SECTION VIII. INSTRUCTION VEHICLES

1. A Contractor may provide the option for a student to use their personal vehicle for driving instruction. If the student opts to use their personal vehicle for driving instruction the Contractor must conduct an inspection of the vehicle, verify that the vehicle has valid registration and insurance coverage. The inspection of the vehicle includes verification that the following items are operable: windshield wipers, glass (clear view from the front, sides and back), horn, rearview mirror, directional signals, head lights, tail lights, brakes lights, brakes, valid license plate, emergency brake,

steering wheel (no more than 3" play), tires (that are not bald), and muffler exhaust system firmly attached to the vehicle.

2. Contractor must maintain a log of all vehicles used that are not owned or leased by the Contractor. This log must be available for inspection upon request by the department.
3. All other motor vehicles used for driving instruction by a Contractor must be owned or leased to the Contractor.
4. A Contractor shall not use any vehicle owned or leased by the Contractor for driving instruction unless the Department has issued a Contractor vehicle registration certificate, form HSMV 72615; as provided for in Section 488.05, Florida Statutes.
5. The vehicle registration certificate must be carried in the vehicle when the vehicle is used for any driving instruction or driving examination and shall expire one (1) year from the date of issuance.
6. If the vehicle is no longer used by the Contractor, the Contractor must notify the Department in writing within ten (10) days and return the vehicle registration certificate to the Department.
7. A motor vehicle used for driving instruction must exhibit the name of the Contractor in two (2) inch letters or larger print. The Contractor's name must be visible from all directions.
8. The Contractor shall not permit any of its vehicles to be used by any person for a driving examination unless such person has executed a driving instruction contract with the Contractor and that person has received driving instruction by the Contractor that pertains to the student's ability to safely operate a motor vehicle.

SECTION IX. TERMINATION, CANCELLATION, AND REINSTATEMENT

A. CANCELLATION: The Department reserves the right to cancel this agreement immediately or deny renewal of this agreement upon determining the Contractor has done one or more of the following:

1. Failure to continuously maintain the required qualifications under this agreement during the term of this agreement and any renewal period.
2. Violation of any term or condition of this Agreement.
3. Knowingly permitting driving instruction by a person who does not hold a valid instructor certificate or holds an inactive certificate, or solicitation by a person who does not hold a valid agent identification card.
4. Conduct or behavior which the Department determines to endanger the health, safety, and welfare of any person or the general public.
5. Conviction of an owner, of any felony, or any offense involving alcohol, narcotic drugs, violence, dishonesty, deceit, fraud or indecency.
6. Fraudulently or by misrepresentation obtaining or assisting a person to obtain any Driver License, school license, instructor certificate card or agent identification card regardless of any conviction; or obtaining or possessing any materials used by the Department to administer any driver license examination, without the authorization of the Department.

B. REAPPLICATION: A Contractor whose Agreement is canceled may reapply with the Department for licensure upon the expiration of three (3) years from the date of cancellation.

C. NOTICE: Cancellation of this Agreement shall be effected by furnishing the Contractor with written notice of cancellation, which shall be effective immediately upon receipt. The notice shall include a short and plain statement of the facts necessitating the cancellation. If the Department determines that grounds for cancellation exist that relate to a failure to comply with or satisfy any provision of this agreement, the Department may postpone cancellation and allow the Contractor thirty (30) days to correct the deficiency. Upon cancellation, the Contractor must relinquish the license to the Department upon request.

D. REINSTATEMENT: If notice of cancellation is issued, the Contractor has twenty-one (21) calendar days after receipt of the notice to request a Department hearing to determine whether this agreement should be reinstated. If a request for a hearing is made, the matter shall be scheduled for hearing to be convened not more than thirty (30) days from receipt of the request. The Department shall render its decision within twenty-one (21) calendar days following the conclusion of the hearing. The Department's decision is final.

E. CANCELLATION BY LAW: In the event that Chapter 488, Florida Statutes, is repealed by the Legislature, this agreement will terminate on the effective date of such act. This agreement may be canceled by the Contractor upon thirty (30) days written notice. This agreement is subject to unilateral cancellation by the Department for refusal of the Contractor to allow public access to all documents, papers, letters or other material subject to provisions of Chapter 119 (Public Records Law), Florida Statutes, and made or received by the Contractor in conjunction with this agreement. This agreement is subject to immediate cancellation by the Department for failure or refusal of the Contractor to comply with any provision of this agreement or any Florida Law.

SECTION X. LIABILITY

It is expressly understood and acknowledged that licensing under this agreement does not create any liability for the Department for any acts of the Contractor that result in claims, actions or litigation as a result of the Contractor providing services to the public as a licensed entity under this agreement. It is also expressly understood and acknowledged that the Contractor is a private entity and is not an agent of the State of Florida or the Department. The Department is not liable for any acts of the Contractor, its employees, instructors or agents.

SECTION XI. AMENDMENTS

The Contractor agrees to accept any amendments to this agreement necessitated by a change in any law upon written notice by the Department. Any other amendments to this agreement must be written and acknowledged by a duly authorized representative of both parties to this agreement.

SECTION XII. NON-ASSIGNABILITY

This agreement and the Contractor's license hereunder are not assignable by the Contractor, either in whole, or in part.

SECTION XIII. WAIVER AND SEVERABILITY

A waiver by either party of any provision of this agreement shall not act as a waiver of any other provision of this agreement. If any provision of this agreement is for any reason declared invalid, illegal or unenforceable, that declaration shall not affect the remainder of the provision of this agreement.

SECTION XIV. LIABILITY AND ATTORNEY'S FEES

1. The Department has no responsibility for any changes in the law by the Florida Legislature and, in no event, shall the Department or the State of Florida be responsible for any damages that may be incurred as a result of reliance of the Contractor on the continuation of this agreement.
2. It is expressly understood that the Contractor is an independent Contractor, not an agent of the Department. The Department's liability in negligence or indemnity for acts of its employees or officers will be only as provided under section 768.28, Florida Statutes.
3. The Department shall not be responsible for attorney fees except as provided by statute.

SECTION XV. AGREEMENT AS INCLUDED ENTIRE AGREEMENT

This instrument embodies the whole AGREEMENT of the parties. There are no provisions, terms, conditions or obligations other than those contained herein; and this AGREEMENT shall supersede all previous communications, representations or agreements, either verbal or written between the parties hereto.

IN WITNESS WHEREOF, the DEPARTMENT and the CONTRACTOR have executed this AGREEMENT as of the date noted on the first page of this agreement.

DEPARTMENT:

BY: _____
Stacy H. Arias
Chief of Purchasing and Contracts

BUREAU OF DRIVER EDUCATION AND
DUI PROGRAMS

BY: _____
Barbara Lauer, Chief

CONTRACTOR

BY: _____

Signature of Witness #1

Print Witness #1 Name

Signature of Witness #2

Print Witness #2 Name

APPROVED AS TO LEGAL FORM AND SUFFICIENCY



JUDSON M. CHAPMAN, GENERAL COUNSEL

DATE: 11-21-06